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EXAMINER
NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
2141	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/523,853	PARTOVI ET AL.
	Examiner	Art Unit	
	Quang N. Nguyen	2141	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 May 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>26-33,35-42,44-50 and 52</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>26-33,35-42,44-50 and 52</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Detailed Action

1.   This Office Action is in responsive to the Request for Continued Examination filed

on 05/05/2008.   Claims 26, 28, 31, 33, 35, 37, 40, 42, 44, 47 and 52 have been

amended. Claims 34, 43 and 51 has been canceled.   Claims 26-33, 35-42, 44-50 and

52 remain pending for examination.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection.   Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114.   Applicant's submission filed on

05/05/2008 has been entered.

Claim Objections

3.   Claim 52 is objected to because of the following informalities:

On line 13 of claim 52: "character." should be "character[[.]]**;**"

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 26-33, 35-42, 44-50 and 52 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Ksiazek (US 6,597,765), in view of Albal et al. (US

2003/0147518), hereinafter "Albal".

6.   As to claim 26, **Ksiazek** teaches a method performed by a voice portal,

comprising:

        receiving a call from a caller, where the call includes identifying information *(i.e.,*

receiving an incoming call from a caller with the associated ANI information) **(Ksiazek,**

col. 3, lines 43-55);

        identifying a first voice character, based on the identifying information, to be used

by the voice portal when audibly interacting with the caller *(based on the associated ANI*

information, the OSPS 26 determines the appropriate assigned operator language

services including operator service announcements, wording, intonation, branding, i.e.,

voice character, for the call) **(Ksiazek, col. 3, lines 43-55)**;

permitting the caller to select a different voice character *(i.e., select a third voice character)*; and changing from one voice character to the different voice character *(i.e., changing from the second voice character to the third voice character)* when further audibly interacting with the caller *(enabling the user to selective change the assigned default/operator language for the telephonic call via the prompt: "To change the assigned language for the telephone operator services, please select the language you wish to use. Press *71 for English, press *72 for Spanish, press *73 for French, etc.,")* **(Ksiazek, col. 4, lines 3-13)**.

However, **Ksiazek** does not explicitly teach detecting a speaking voice associated with the caller through the voice portal interaction with the caller; identifying a second voice character based on the detected speaking voice associated with the caller; and changing from the first voice character to the second voice character when further audibly interacting with the caller.

In an analogous art, **Albal** teaches detecting a speaking voice associated with the caller through the voice portal interaction with the caller *(the automatic speech recognition unit "ASR" 254 processes the speech inputs from the user to determine/identify the user speech pattern)* **(Albal, paragraph [0066])**;

identifying a second voice character based on the detected speaking voice associated with the caller *(i.e., in response to the detected user speech pattern determined/identified by the "ASR" 254 above, the communication node 212 can provide various dialog voice personalities such as a female voice, a male voice, etc.,*

and can implement various grammars to detect and respond to the audio inputs from the user) **(Albal, paragraph [0047])**; and

changing from the first voice character to the second voice character when further audibly interacting with the caller *(after retrieving the information, the application server 242 processes the retrieved information and provides/outputs the information to the user according to one of various dialog voice personalities selected and provided by the communication node 212 in response to the audio inputs from the user, i.e., outputs the information according to a second voice character based on the identified caller's speech pattern)* **(Albal, paragraphs [0047], [0066] and [0074])**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of **Albal** and **Ksiazek** to achieve the claimed invention since both references are directed to communications systems providing multi-language access with multiple variations services to the user, hence, would be considered to be analogous based on their related fields of endeavor.

One would be motivated to do so to provide various services and capabilities to a user/caller by enhancing the ability of voice processing system to interact with the user in a user-friendly environment such as interacting with the user in the user-preferred language, speech pattern, intonation, etc., according to the user's location, identification and/or actions **(Albal, paragraph [0015])**.

7.   As to claim 27, **Ksiazek-Albal** teaches the method of claim 26, further comprising determining a locale associated with the call based on the identifying

information *(i.e., based on the associated ANI information such as the identified country code, area code, and prefix information, the caller's number can identify a locale such as a city, state, country, and/or a particular location such as a hospital, a nursing home, a hotel, an airport, etc.)* **(Albal, paragraph [0021])**. The same motivations regarding the obviousness of claim 26 is also applied equally well to claim 27.

8.   As to claim 28, **Ksiazek-Albal** teaches the method of claim 27, wherein the identifying the first voice character includes determining the first voice character as a voice character associated with the determined locale *(based on the associated ANI information, the OSPS 26 determines the appropriate assigned operator language services including operator service announcements, wording, intonation, branding, i.e., voice character, for the call)* **(Ksiazek, col. 3, lines 43-55)**.

9.   As to claim 29, **Ksiazek-Albal** teaches the method of claim 27, further comprising presenting prompts to the caller based on the determined locale *(i.e., providing the appropriate assigned operator language services, greetings, announcements to the caller based on the ANI information)* **(Ksiazek, col. 3, lines 43-55 and col. 4, lines 3-13)**.

10.   As to claim 30, **Ksiazek-Albal** teaches the method of claim 26, further comprising determining a type of communication device used by the caller based on the identifying information *(the communication node 212 can automatically identify the user*

or the type of the user's communication device through the use of Automatic Number

Identification "ANI" or Caller Line Identification "CLI") **(Albal, paragraph [0048])**. The

same motivations regarding the obviousness of claim 26 is also applied equally well to

claim 30.

11.   As to claim 31, **Ksiazek-Albal** teaches the method of claim 30, wherein the

identifying the first voice character includes determining the first voice character based

on the determined type of communication device used by the caller *(the communication*

node 212 can automatically select a voice character from various dialog voice

personalities and/or select various speech recognition models based upon the user's

communication device) **(Albal, paragraphs [0047-0048])**.   The same motivations

regarding the obviousness of claim 26 is also applied equally well to claim 31.

12.   As to claim 32, **Ksiazek-Albal** teaches the method of claim 26, further

comprising determining actions of the caller during the voice portal interaction with the

caller *(enabling the user to selectively change the assigned language for the telephone*

call via the prompt: "To change the assigned language for the telephone operator

services, please select the language you wish to use. Press *71 for English, press *72

for Spanish, press *73 for French, etc) **(Ksiazek, col. 4, lines 3-13)**.

13.   As to claim 33, **Ksiazek-Albal** teaches the method of claim 32, wherein the

identifying the second voice character includes determining the second voice character

based on the detected speaking voice associated with the caller and the determined actions of the caller *(enabling the user to selectively change the assigned language for the telephone call via the prompt: "To change the assigned language for the telephone operator services, please select the language you wish to use. Press *71 for English, press *72 for Spanish, press *73 for French, etc., i.e., <u>determining the voice character based on the determined actions of the caller</u>)* **(Ksiazek, col. 4, lines 3-13)**.

14.   Claims 35-42 are corresponding system claims of method claims 26-33; therefore, they are rejected under the same rationale.

15.   Claims 44-48 are corresponding system claims of method claims 26 and 29-32; therefore, they are rejected under the same rationale.

16.   As to claim 49, **Ksiazek-Albal** teaches the system of claim 48, wherein the voice portal is further configured to determine the different voice character based on the determined actions of the caller *(enabling the user to selective change the assigned default language for the telephonic call via the prompt: "To change the assigned language for the telephone operator services, please select the language you wish to use. Press *71 for English, press *72 for Spanish, press *73 for French, etc.")* **(Ksiazek, col. 4, lines 3-13)**.

17.   As to claim 50, **Ksiazek-Albal** teaches the system of claim 44, wherein the voice portal is further configured to detect a speaking voice associated with the caller while audibly interacting with the caller *(the automatic speech recognition unit "ASR" 254 processes the speech inputs from the user to determine/identify the user speech pattern)* **(Albal, paragraph [0066])**; and determine the different voice character based on the detected speaking voice *(i.e., in response to the detected user speech pattern determined/identified by the "ASR" 254 above, the communication node 212 can provide various dialog voice personalities such as a female voice, a male voice, etc., and can implement various grammars to detect and respond to the audio inputs from the user)* **(Albal, paragraph [0047])**. The same motivations regarding the obviousness of claim 26 is also applied equally well to claim 50.

18.   As to claim 52, **Ksiazek-Albal** teaches a method, comprising:

receiving a call from a caller, where the call includes identifying information for identifying a locale and determining a type of communication device used by the caller *(i.e., receiving an incoming call with the associated ANI information and based on the associated ANI information such as the identified country code, area code, and prefix information, the caller's number can identify a locale such as a city, state, country, or a particular location such as a hospital, a nursing home, a hotel, an airport, etc. and the caller's number can also identify the communication device is pay telephone, home telephone, wireless phone, calling card, etc.)* **(Ksiazek, col. 3, lines 21-55)**;

identifying a first voice character using the locale and the type of communication device used by the caller determined by the identifying information *(based on the location and communication device determined by the associated ANI information, the OSPS 26 determines the appropriate assigned operator language services for the call)* **(Ksiazek, col. 3, lines 21-55)**;

providing audible prompts to the caller in a speech pattern based on the first voice character *(i.e., providing the appropriate assigned operator language services, greetings, announcements to the caller)* **(Ksiazek, col. 3, lines 43-55 and col. 4, lines 3-13)**;

detecting a speaking voice associated with the caller *(the automatic speech recognition unit "ASR" 254 processes the speech inputs from the user to determine/identify the user speech pattern)* **(Albal, paragraph [0066])**;

determining actions of the caller during interactions with the caller;

identifying a second voice character based on the detected speaking voice associated with the caller and the determined actions of the caller *(i.e., in response to the detected user speech pattern determined/identified by the "ASR" 254 above, the communication node 212 can provide various dialog voice personalities such as a female voice, a male voice, etc., and can implement various grammars to detect and respond to the audio inputs from the user)* **(Albal, paragraph [0047])**; and

providing further audible prompts to the caller in a speech pattern based on the second voice character *(the application server 242 retrieves the information, processed the retrieved information and provides/outputs the information to the user according to*

one of various dialog voice personalities selected and provided by the communication node 212 in response to the audio inputs from the user, i.e., <u>outputs the information according to a second voice character based on the identified caller's speech pattern</u>) **(Albal, paragraphs [0047], [0066] and [0074])**;

permitting the caller to select a third voice character; and switching from the second voice character to the third voice character to provide further audible prompts to the caller *(enabling the user to selective change the assigned default/operator language for the telephonic call via the prompt: "To change the assigned language for the telephone operator services, please select the language you wish to use. Press *71 for English, press *72 for Spanish, press *73 for French, etc.,")* **(Ksiazek, col. 4, lines 3-13)**.

The same motivations regarding obviousness of claim 26 is also applied equally well to claim 52.

Response to Arguments

19.   In the Remarks, Applicants argued in substance that

(A)   "***Ksiazek** teaches away from the teachings of applicant's claimed subject matter at least in the independent claims. The disclosure of Ksiazek teaches away from the combination suggested in the Office Action by specifying that an assigned language is maintained throughout the duration of a call"*, as recited in page 9 of the Remarks.

As to point (**A**), Examiner respectfully disagrees noting that **Ksiazek** teaches to enable the user to selectively change the assigned default language for the telephonic call, for example, the prompt may ask the user, "To change the assigned language for telephone operator services, please select the language you wish to use. Press *71 for English, press *72 for Spanish, press *73 for French, etc." and any suitable prompt to initiate the caller to selectively choose a desired language for operator services may be employed **(Ksiazek, col. 4, lines 3-11)**.

Hence, **Ksiazek** does not teach away from the invention by providing the caller the capability to change the assigned language for the telephone operator services.

(**B**)   **Albal** does not disclose *"identifying a second voice character using the detected speaking voice"* and *"changing from a first voice character to the second voice character"*, as recited in page 10 of the Remarks.

As to point (**B**), Examiner respectfully disagrees noting that **Albal** discloses:

[0066]   "The ASR unit 254 of the VRU server 234 **provides speaker dependent or independent automatic speech recognition of speech inputs or communications from the user**. It is contemplated that the ASR unit 254 **can include speaker dependent speech recognition.** The ASR unit 254 **processes the speech inputs from the user to determine** whether a word or **a speech pattern** matches any of the grammars or vocabulary stored in the database server unit 244 or downloaded from the voice browser. When the ASR unit 254 **identifies a selected pattern of the speech inputs**, the ASR unit 254 **sends an output signal to implement the specific function associated with the recognized voice pattern**. The ASR unit 254 is preferably a speaker independent speech recognition software package, Model No. RecServer, available from Nuance Communications. **It is contemplated that the ASR unit can be any suitable speech recognition unit to detect voice communications from a user**."

Hence, **Albal** does teach *"detecting a speaking voice associated with the caller through the voice portal interaction with the caller"*, as claimed in the invention.

In addition, at paragraph [0047], **Albal** discloses:

[0047]   "The node 212 can **provide various dialog voice personalities (i.e., a female voice, a male voice, etc.) and can implement various grammars (i.e., vocabulary) to detect and** <u>respond to the audio inputs from the user</u>. In addition, the communication node can automatically select various speech recognition models (i.e., an English model, a Spanish model, an English accent model, etc.) based upon a user profile, the user's communication device, and/or the user's speech patterns. The communication node 212 can also allow the user to select a particular speech recognition model."

Since **Albal** clearly discloses *"the ASR unit 254 processes the speech inputs from the user to determine the user's speech pattern"*, *"the ASR unit 254 implements specific functions associated with the recognized/detected voice pattern"* **(paragraph [0066])** and *"the node 212 can provide various dialog voice personalities (i.e., a female voice, a male voice, etc.) and can implement various grammars (i.e., vocabulary) to detect and respond to the audio inputs from the user"* (paragraph [0047]), Examiner respectfully submits that one ordinary skill in the art would have duly recognized that **Albal**'s disclosed mechanism for processing the speech inputs from the user to determine the user's speech pattern and providing/implementing various dialog voice personalities (i.e., a female voice, a male voice, etc.) and various grammars (i.e., vocabulary) to respond to the audio inputs from the user amounts to *"identifying and changing to a second voice character using the detected speaking voice associated with the caller"*, as claimed in the invention.

(**C**)   **Albal** does not disclose *"permitting a caller to select a third voice character"* and *"changing from the second voice character to the third voice character"*, as recited in page 10 of the Remarks.

As to point (**C**), Examiner respectfully disagrees noting that in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In this case, Ksiazek does teach permitting the caller to select a different voice character *(i.e., select a third voice character)*; and changing from one voice character to the different voice character *(i.e., changing from the second voice character to the third voice character)* when further audibly interacting with the caller *(enabling the user to selective change the assigned default/operator language for the telephonic call via the prompt: "To change the assigned language for the telephone operator services, please select the language you wish to use. Press *71 for English, press *72 for Spanish, press *73 for French, etc.,")* **(Ksiazek, col. 4, lines 3-13)**.

(**D**)   *"**Albal** teaches away from the combination suggested in the Office Action by specifying that the ASR (automatic speech recognition unit) is speaker independent, thus teaching away from applicant's claimed subject matter of "detecting a speaking voice associated with the caller""*, as recited in page 12 of the Remarks.

As to point (**D**), Examiner respectfully disagrees noting that **Albal** teaches *"The ASR unit 254 of the VRU server 234 provides <u>speaker dependent</u> or independent automatic speech recognition of speech inputs or communications from the user. It is contemplated that <u>the ASR unit 254 can include speaker dependent speech recognition</u>. The ASR unit 254 processes the speech inputs from the user … When the ASR unit 254 identifies a selected speech pattern of the speech inputs, the ASR unit 254 sends an output signal to implement the specific function associated with the recognized voice pattern."* **Albal** also teaches *"It is contemplated that <u>the ASR unit 254 can be any suitable speech recognition unit to detect voice communications from the user</u>"* **(Albal, paragraph [0066])**.

Hence, **Albal** does not teach away from the invention by <u>providing the ASR unit 254 with speaker dependent speech recognition to identify a selected speech pattern of the speech inputs from the user</u>.

(**E**)   *"References cannot be combined where references teach away from their combination (MPEP 2145 X.D.2) since it is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)"*, as recited in page 13 of the Remarks.

As to point (**E**), Examiner respectfully submits that "A prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness; however, "the nature of the teaching is highly relevant and

must be weighted in substance. A known or obvious composition does not become patentable simply because it has been described somewhat inferior to some other product for the same use." *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994).

Furthermore, Examiner respectfully submits that in view of the Supreme Court's recent opinion in *KSR Int'l Co. v. Teleflex Inc.*, "What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under U.S.C 103." *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007). To be nonobvious, an improvement must be "more than the predictable use of prior art elements according to their established functions." *Id.* at 1740. In *KSR*, the Supreme Court reaffirmed that "[w]hen a patent 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an arrangement, the combination is obvious." *KSR*, 127 S. Ct. 1740 (quoting *Sakraida v. Ag Pro, Inc.*, 425 U.S. 273, 282 (1976)). Moreover, "[w]hen there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product ... of ordinary skill and common sense." *KSR*, 127 S. Ct. at 1742.

20.   Applicant's arguments as well as request for reconsideration filed on 05/05/2008 have been fully considered but they are not deemed to be persuasive.

21.   A shortened statutory period for reply to this Office Action is set to expire THREE

(3) months from the mailing date of this communication. See 37 CFR 1.134.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Quang N. Nguyen whose telephone number is (571)

272-3886.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the

organization is (571) 273-8300.

        Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang N. Nguyen/
Primary Examiner, Art Unit 2141